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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.25437 of 2024
Date of decision: 24.07.2024

Himanshu @ Manshu ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. J.P. Jangu, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Gagandeep Singh Simble, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner seeking anticipatory bail in case arising out of FIR No.168 dated 24.11.2019 registered under Sections 201, 307, 323, 34, 341, 506 and 120-B of IPC and Section 25 of Arms Act, 1959 at Police Station Alewa, District Jind.
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforesaid FIR was registered on the

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statement of Ramesh son of Hari Ram as recorded on 23.11.2019 alleging therein that on the same day, he had gone towards the water supply tank near the Bani of his village, when the petitioner along with co-accused Mohit reached there. The co-accused Mohit hurled abuses to him and then at once took out a countrymade pistol and shot a fire upon his chest with the same. He raised rescue alarm on hearing which public persons gathered at the spot and then the petitioner and co-accused Mohit fled away. He was rushed to the hospital for treatment. After registration of FIR, investigation proceedings were initiated. During investigation, the present petitioner and co-accused Mohit were found to be innocent. However, four more persons namely, Ramesh @ Mesha, Lakhan @ Lakhi, Sunil and Jitender were arrested on finding their complicity in the subject crime. After completion of necessary investigation, challan was presented in the Court.

3. As per the allegations, in his sworn deposition recorded during trial, the complainant took the name of the present petitioner and co-accused Mohit as the persons who had made an attempt to kill him by firing shots with pistol. An application under Section 319 of Cr.P.C. was moved by the prosecution for arraigning the present petitioner and co-accused Mohit as additional accused. This application was allowed vide order dated 19.03.2024 and the petitioner and co-accused Mohit were ordered to be summoned as co-accused. Apprehending his arrest, the petitioner moved application for pre arrest bail which has been dismissed

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by the learned trial Court vide order dated 06.05.2024.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case as neither he himself had participated in the alleged occurrence in any manner nor he helped the co-accused in committing the subject offences. He was declared to be innocent by the investigating agency. The co-accused Mohit has been granted concession of bail today. Nothing is to be recovered from the present petitioner. No injury with firearm had been attributed to him. Custodial interrogation of the petitioner is not required. He has already joined the proceedings before the learned trial Court. With these broad submissions, it is urged that the petition deserves to be allowed.

5. It is argued by learned State counsel assisted by learned counsel for the complainant that since the petitioner has been summoned as an additional accused on account of committing a serious offence, therefore, there is possibility of violation of terms and conditions of the bonds and giving threats to the material prosecution witnesses on the part of the petitioner, if extended benefit of bail and, therefore, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record.

7. It is relevant to mention that vide order dated 20.05.2024, the petitioner was directed to appear before the trial Court and on his appearance, he was ordered to be released on interim bail to the

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satisfaction of the Court. The petitioner has joined proceedings before the learned trial Court. Since he had been summoned under Section 319 of Cr.P.C. after completion of investigation and during the course of trial, therefore, obviously, the custodial interrogation of the petitioner is not required. Undoubtedly, there are allegations in the FIR qua the petitioner’s involvement in committing a serious offence. However, keeping in view the peculiar circumstances that the petitioner had previously been declared innocent and has been summoned as an additional accused and as his custodial interrogation is not required, I am of the considered opinion that no useful purpose would be served by detaining the petitioner in custody as his presence can be secured even otherwise also.

8. In view of the discussion as made above, the petition is allowed and the order dated 20.05.2024 qua admitting the petitioner to interim bail is ordered to be made absolute subject to compliance of usual terms and conditions under Section 438 (2) of Cr.P.C. The learned trial Court may ask the petitioner to furnish personal as well as surety bonds if the same are not furnished till date.

24.07.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No